



ASIC

Australian Securities &
Investments Commission

REPORT 692

Response to submissions on CP 302 Proposed changes to ASIC's capital requirements for market participants

June 2021

About this report

This report highlights the key issues that arose out of the submissions received on [Consultation Paper 302](#) *Proposed changes to ASIC's capital requirements for market participants* (CP 302) and details our responses to those issues.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

This report does not contain ASIC policy. Please see:

- [Regulatory Guide 265](#) *Guidance on ASIC market integrity rules for participants of securities markets*
- [Regulatory Guide 266](#) *Guidance on ASIC market integrity rules for participants of futures markets*

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A Overview/Consultation process

- 1 In [Consultation Paper 302](#) *Proposed changes to ASIC's capital requirements for market participants* (CP 302), we consulted on proposals to amend the ASIC Market Integrity Rules (Securities Markets – Capital) 2017 (Securities Capital Rules) and the ASIC Market Integrity Rules (Futures Markets – Capital) 2017 (Futures Capital Rules). We also proposed consolidating the Securities Capital Rules and the Futures Capital Rules into one rule book which will be known as the ASIC Market Integrity Rules (Capital) 2021 (the Capital Rules).
- 2 The Capital Rules impose capital and liquidity requirements on market participants (other than principal traders or clearing participants) of the ASX, ASX 24, Chi-X, FEX, NSXA and SSX markets. There are currently 33 impacted market participants.
- 3 As a result of consultation on CP 302 and feedback received, the Capital Rules require a market participant to:
 - (a) comply with the risk-based capital requirements, regardless of whether it is a securities market or futures market participant;
 - (b) calculate a commodity position risk amount for principal positions in commodities and commodity derivatives;
 - (c) maintain a core capital balance of at least \$500,000 (for securities market participants) or \$1,000,000 (for futures market participants);
 - (d) calculate an underwriting and sub underwriting risk amount for underwriting and sub underwriting commitments respectively;
 - (e) calculate a counterparty risk amount for sub underwritten commitments made by a counterparty;
 - (f) calculate an unusual or non-standard exposure risk amount for credit derivatives;
 - (g) notify ASIC immediately if its net assets are equal to or fall below zero;
 - (h) report a breakdown of its aged debtors to ASIC each month; and
 - (i) meet new liquidity requirements such as projecting cash flows, maintaining a liquidity plan and documenting a contingency funding plan.
- 4 The Capital Rules also change the capital requirements for market participants by:
 - (a) removing a number of unused risk calculation methods;

- (b) allowing market participants to use the non-margined financial instruments method to calculate counterparty risk for unsettled trades in margined equities, debt instruments and warrants;
- (c) harmonising the reporting requirements for partnership and non-partnership market participants;
- (d) disallowing the use of approved subordinated debt in the calculation of core capital;
- (e) amending terms and definitions to update and align them with the Australian Accounting Standards;
- (f) allowing market participants to treat the net value of a right-of-use asset and its corresponding lease liability as a prescribed excluded asset;
- (g) changing the definitions of 'Liquid' and 'Qualifying Debt Instruments';
- (h) updating tables with references to market indices and foreign regulators; and
- (i) exempting market participants that are also authorised deposit taking institutions from complying with the capital requirements.

5 This report highlights the key issues that arose from the submissions received on CP 302 and our responses to those issues. It is important to note that the proposals under Part C 'Securities Capital Rules' also apply to futures market participants, as part of the new single capital rule book for securities and futures market participants (with the exception of the increased core capital requirement for securities market participants).

6 This report is not meant to be a comprehensive summary of all responses received. It is also not meant to be a detailed report on every question from CP 302. We have limited this report to the key issues.

7 We received seven confidential and four non-confidential responses to CP 302. We have also had discussions and held meetings with many of these respondents as part of our consultation process, which has informed our final position on the proposals. We are grateful to respondents for taking the time to send us their comments and participate in further engagement.

8 For a list of the non-confidential respondents to CP 302, see the Appendix. Copies of these submissions are on the ASIC website under [CP 302](#).

9 The Capital Rules can be downloaded from the [Federal Register of Legislation](#).

Responses to consultation

10 The main issues raised by respondents related to those proposals which require a market participant to:

- (a) comply with the risk-based capital requirements, regardless of whether it is a securities market participant or futures market participant;
- (b) maintain a core capital balance of at least \$500,000 (for securities market participants) or \$1,000,000 (for futures market participants);
- (c) calculate an underwriting and sub underwriting risk amount for underwriting and sub underwriting commitments respectively;
- (d) calculate a counterparty risk amount for sub underwritten commitments made by a counterparty;
- (e) report a breakdown of its aged debtors to ASIC each month; and
- (f) meet new liquidity requirements such as projecting cash flows.

11 The other issues raised by respondents related to the proposals to:

- (a) disallow the use of approved subordinated debt in the calculation of core capital; and
- (b) exempt market participants that are also authorised deposit taking institutions from complying with the capital requirements.

B Futures Capital Rules

Key points

This section outlines the feedback received on our proposed changes to the Futures Capital Rules and our response to those submissions. As part of the new single capital rule book, futures market participants are also subject to the changes outlined within Part C 'Securities Capital Rules', with the exception of the increased core capital minimum for securities market participants.

Specifically, the feedback from respondents related to our proposals to:

- require market participants of futures markets to comply with a risk-based capital regime instead of the existing net tangible asset regime;
- create a single capital rule book for securities and futures market participants; and
- introduce a commodity position risk requirement.

Risk-based capital framework

- 12 In [CP 302](#), we sought feedback on the proposal to move market participants of futures markets from the existing net tangible asset (NTA) regime to a risk-based capital regime, which would involve creating one capital rule book for securities market participants and futures market participants.
- 13 This proposal would require market participants of futures markets (the ASX 24 and FEX markets) to calculate their total risk requirement, and at all times hold liquid capital in excess of this amount.
- 14 We further proposed that market participants of futures markets would be required to comply with a minimum core capital requirement of \$1,000,000, which is comparable to the existing requirements to hold \$1,000,000 in NTA.
- 15 We proposed to provide a six-month transition period from the time the consolidated capital rule book is registered on the Federal Register of Legislation to the time the consolidated capital rules come into force.
- 16 Feedback from respondents generally supported or provided in principle support to these proposals. Respondents acknowledged that the risk-based system better aligns required capital with associated business risks and allows market participants to manage their capital costs through the control of risk.

- 17 Respondents contended that a single rule book enhances comparability of capital requirements of market participants and introduces efficiencies in calculation and certification processes.
- 18 However, there was mixed feedback about the most appropriate transition period to comply with the Capital Rules, ranging from a six- to a 24-month period before the Capital Rules come into effect.
- 19 One submission provided in principle support to a risk-based capital regime but argued that the existing NTA requirement is effective. This respondent contended that extending the risk-based capital requirements to futures market participants should only be done in conjunction with changes to the ASX Clear (Futures) rules (which currently impose an NTA requirement), in order to maintain alignment with ASX Clear (Futures) requirements. The respondent contended that most futures market participants are ASX Clear (Futures) members and are not subject to the proposed Capital Rules.
- 20 This submission also recommended that we provide a 12-month transition period to give futures market participants adequate time to change their processes and controls. This submission also argued that futures market participants should only be subject to a \$500,000 core capital requirement.

ASIC's response

We have proceeded with the proposal to move futures market participants from the existing NTA regime to a risk-based capital regime by creating one capital rule book for securities market participants and futures market participants.

The risk-based capital requirements are more effective in ensuring market participants hold an amount of capital commensurate with the level of risk they have taken on.

The existence of two separate market integrity rule books for capital gives rise to an unnecessarily complex regulatory framework, particularly for market participants that trade on both securities and futures markets. Consolidating the rules substantially reduces the total length of the Capital Rules.

As a result of feedback received in relation to the six-month transition period, we have implemented a 12-month transition period from the time the Capital Rules are made. This provides additional time for market participants to make changes to processes and controls to comply with the risk-based capital requirements.

We note that futures market participants are already subject to a \$1,000,000 NTA requirement. As such we do not consider a \$1,000,000 core capital requirement to be onerous and do not propose to lower this threshold.

Commodity position risk

- 21 In [CP 302](#), we sought feedback on the proposal to introduce a commodity position risk amount to the position risk requirement. This would require market participants to hold additional capital to account for the position risk of holding commodity derivatives or commodity positions.
- 22 We received three submissions on this proposal, which all provided full or in principle support for the proposal. One submission supported the proposal provided the commodity position risk amount only applied to principal positions.
- 23 Another submission recommended that ASIC allow for the appropriate netting of commodity exposures before applying risk factors. This submission also recommended including commodity swaps in the commodity position risk requirement.
- 24 Following further analysis of the commodity position risk, we identified that the definitions of 'commodity' and 'foreign exchange' were restrictive and potentially inconsistent with other prudential requirements. This resulted in further consultation with entities that were potentially affected.

ASIC's response

We have proceeded with the proposal to introduce a commodity position risk amount to the position risk requirement.

This proposal to introduce a commodity position risk amount was only intended to apply to principal positions.

As a result of the feedback received, we have amended the proposed rule to allow netting of commodity derivatives and commodity positions before applying the commodity position risk factor. Netting is allowed where the commodities are fungible for settlement purposes or are a highly correlated close substitute.

Following our further consideration of this proposal, we have also:

- provided market participants with more methods to calculate commodity risk exposure to ensure consistency with the current equity and debt position risk requirements;
- amended the definition of 'commodity' to more closely align with the Australian Prudential Regulation Authority (APRA)'s definition of 'commodity' which broadly captures products the market would consider to be a commodity;
- amended the definition of 'foreign exchange' to allow gold to be treated under the foreign exchange position risk requirement. This makes it consistent with Prudential Standard APS 116 *Capital adequacy: Market risk*, where the volatility of gold is better aligned to foreign currencies and typically managed in a similar manner to foreign currencies;
- provided the option to use the basic method to calculate foreign exchange option exposure; and
- included 'commodity swaps' in the commodity position risk requirement.

C Securities Capital Rules

Key points

This section outlines the feedback received on our proposed changes to the Securities Capital Rules, and our response to those submissions. It is important to note that these changes also apply to futures market participants as part of the new single capital rule book, with the exception of the core capital requirement.

Specifically, the feedback from respondents related to our proposals to:

- increase the core capital requirement for securities market participants;
- introduce underwriting and sub underwriting risk requirements, together with a new counterparty risk requirement relating to sub underwriting;
- add a new requirement for credit derivatives;
- remove risk calculation methods;
- add a new requirement to provide an aged debtors report;
- remove the ability to use approved subordinated debt to meet the core capital requirement; and
- amend definitions of key terms.

Increased core capital requirement

- 25 In [CP 302](#), we sought feedback on the proposal to amend Rule S1A.2.1 of the Securities Capital Rules so that a market participant of a securities market must ensure that its core capital is at all times not less than \$500,000.
- 26 We received 10 submissions on this proposal, five of which provided full or in principle support to the proposal.
- 27 Submissions in support of the proposal noted that participants of comparable international exchanges must demonstrate a higher level of financial standing and commitment to their business than that imposed by our existing capital regime.
- 28 Submissions supporting the proposal understood ASIC's objectives in increasing the core capital requirement and agreed that the proposal would provide an enhanced level of retail investor protection.
- 29 One of the submissions in support of the core capital increase noted that a revision of the minimum core capital requirement may be appropriate after 17 years without indexation.

- 30 Another submission supported this proposal on the condition that ASIC amend the Capital Rules to allow right-of-use assets to be netted off against the corresponding lease liability, as a result of the new accounting standard AASB 16 *Leases*.
- 31 Submissions opposing the proposal noted that the higher core capital requirement may result in market exit for some participants and increase barriers to entry—leading to reduced competition and increased market concentration.
- 32 Respondents opposed to the proposal further asserted that New Zealand, Hong Kong and Singapore are not comparable markets to Australia's financial markets and should not be referenced for benchmarking purposes.
- 33 Three submissions opposing the proposal argued that a \$500,000 core capital requirement is not proportional to the risk seeking to be managed and the core capital requirement should be relative to the nature, size and risk of the market participant.
- 34 Two of the submissions that opposed this proposal noted that a higher core capital requirement would not provide greater protection to investors due to the existence of other compensation arrangements, with one respondent also noting professional indemnity as a credible alternative.
- 35 One of the submissions that opposed the proposal suggested the core capital requirement should only be increased to \$162,000 to reflect the inflation-adjusted value of the \$100,000 core capital requirement introduced in 1999–2000.
- 36 Two submissions noted it was already illegal to use client money to fund operating expenses, with one of these further highlighting that some market participants hold client money with clearing participants.
- 37 One submission recommended that ASIC provide a two-year transition period to allow market participants time to comply with an increased core capital requirement. Another submission proposed a three- to four-year transition period.
- 38 As an alternative, we also consulted on whether a two-tiered core capital requirement should be introduced, which would distinguish between market participants based on the type of business being conducted (e.g. whether a market participant holds client money). Three submissions were received in relation to this alternative proposal. One submission did not support implementing a complicated two-tier capital requirement on this basis as it would not increase retail protection. Two submissions provided some support to maintaining a two-tier capital requirement.

ASIC's response

We have proceeded with the proposal to require a securities market participant to ensure that its core capital is at all times not less than \$500,000.

We have carefully considered the feedback opposing an increase in the core capital requirement. However, we consider that \$500,000 is the appropriate minimum amount of core capital that a securities market participant should hold to address the risks posed by, and to, its business.

We accept that securities market participants with less than \$500,000 in core capital will incur costs, as they will be required to issue capital or inject cash into their business to meet the higher core capital requirement.

However, we believe that a higher core capital requirement will, on balance, benefit most market participants by:

- increasing their financial resilience and risk profile, which will better allow them to withstand shocks while still meeting their obligations to clients and counterparties; and
- improving a market participant's ability to absorb losses which permits, where necessary, the orderly unwinding of a market participant's business.

We also consider that the higher core capital requirement will:

- result in increased confidence in Australia's financial markets;
- provide greater protection for client assets, as better capitalised market participants are less likely to misuse client assets; and
- better align the capital requirements for market participants with international best practice.

We accept that some market participants will require time to comply with a \$500,000 core capital requirement and therefore have provided market participants with a 12-month transition period.

We also considered the feedback in relation to our alternative proposal to have a two-tiered core capital requirement. However, after careful consideration, we do not believe a complicated two-tier capital requirement provides better retail protection.

We have considered the feedback in relation to the impact of AASB 16 *Leases* on market participants' capital balances and amended the Capital Rules to allow a right-of-use asset to be offset against the corresponding lease liability; with the net amount to be treated as an excluded asset for the purposes of calculating liquid capital.

Underwriting and sub underwriting risk requirement

- 39 In [CP 302](#), we sought feedback on the proposal to require a market participant to apply an underwriting risk factor and position risk factor to its net underwriting or sub underwriting exposure.
- 40 We received four submissions on this proposal, two of which fully supported the proposal.
- 41 One of the submissions that did not support this proposal argued that market participants can gauge the level of risk when underwriting and that the proposal would reduce the number of new underwritten capital raisings.

ASIC's response

We have proceeded with the proposal to require a market participant to apply an underwriting risk factor and position risk factor to its net underwriting or sub underwriting exposure.

We accept that introducing an underwriting and sub underwriting risk requirement may increase the cost of underwriting/sub underwriting. However, we do not consider that the number of underwritten/sub underwritten capital raisings will be significantly affected, nor do we believe that this proposal presents a risk to capital formation in our markets. This is because existing Australian financial services (AFS) licensees are required to hold capital for underwriting and sub underwriting activities.

We believe market participants should hold additional capital when undertaking underwriting or sub underwriting exposure.

This is to cover the risk of losses resulting from an under-subscribed underwriting or sub underwriting where the exposure is not fully covered.

Counterparty risk requirement sub underwritten positions method

- 42 In CP 302, we sought feedback on the proposal to require market participants to calculate a counterparty risk amount for sub underwriting commitments made by counterparties. The counterparty risk amount for sub underwriting is designed to mitigate the risk of losses resulting from a sub underwriter counterparty that fails to meet its sub underwriting commitments.
- 43 We received four submissions on this proposal, two of which provided full or in principle support to the proposal. One of these submissions acknowledged the proposal would result in additional costs to them but agreed the proposal was reasonable. Another submission provided in principle support, but recommended ASIC only apply this risk amount if the market participant has a legal obligation to settle on the sub underwriter's behalf in the event of the sub underwriter's default.

- 44 The respondents that did not support the proposal suggested that sub underwriting agreements recognise risk and have mechanisms in place to address adverse events.

ASIC's response

We have proceeded with the proposal to require a market participant to calculate a counterparty risk amount for sub underwriting commitments made by counterparties. Counterparty risk exists where a market participant relies on another party to meet its obligations, and we believe capital should be held against this risk. We do not believe that all sub underwriting agreements adequately address the risk of losses resulting from a sub underwriter's default. Instead, we believe that a capital charge is an appropriate way to mitigate this risk.

As such we do not consider any amendment to the proposed rule is appropriate.

Unusual or non-standard exposures—Credit derivatives

- 45 In [CP 302](#), we sought feedback on the proposal to insert a new rule in Schedule 1A of the Securities Capital Rules which would require a market participant to calculate an unusual or non-standard exposure risk amount for credit derivatives. The proposed rule applies a standard 8% risk weighting and a counterparty-specific risk weighting to either the notional amount or the maximum payout of the credit derivative.
- 46 We received one submission on this proposal which supported the proposal but recommended that ASIC allow for the netting of positions before applying a weighting.

ASIC's response

We have proceeded with the proposal to require a market participant to calculate an unusual or non-standard exposure risk amount for credit derivatives.

The credit derivative risk amount in the proposed rule does not allow for netting, as it uses the notional amount and maximum payout to determine the risk requirement. This is consistent with existing ASX Clear treatment of credit derivatives.

We may permit the netting of credit derivatives, similar to requirements outlined in Prudential Standard APS 112 *Capital adequacy: Standardised approach to credit risk*, where a market participant is able to demonstrate the netting of credit derivatives is appropriate. We would consider this on a case-by-case basis.

Removal of risk calculation methods

- 47 In [CP 302](#), we sought feedback on the proposal to remove the following risk calculation methods from the Securities Capital Rules to make it easier for market participants to calculate their risk requirements:
- (a) Part A3.3 Building block method—Equity position risk;
 - (b) Part A3.4 Contingent loss matrix method—Equity position risk;
 - (c) Part A3.7 Arbitrage method—Equity position risk;
 - (d) Part A3.12 Building block method—Debt position risk;
 - (e) Part A3.13 Contingent loss matrix method—Debt position risk; and
 - (f) Part A3.20 Contingent loss matrix method—Foreign exchange position risk.
- 48 We received three submissions on this proposal, two of which supported the proposal.
- 49 The submissions supporting the proposal indicated fewer risk calculation methods would shorten and simplify the Capital Rules, making it easier for market participants to understand when additional capital must be held.
- 50 The third submission supported increased flexibility in the calculation of risk. This submission recommended that ASIC allow the use of approved accredited internal risk models to calculate position risk requirements.

ASIC's response

We have proceeded with the proposal to remove the stated risk calculation methods from the Capital Rules. We do not believe providing a greater number of risk methods is beneficial, particularly as these methods do not appear to be used by market participants.

Aged debtors report

- 51 In CP 302, we sought feedback on the proposal to insert an aged debtors report in Schedule 1C of the Capital Rules, which would require a market participant to disclose to ASIC (on a monthly basis) a breakdown of its aged receivables balance.
- 52 We received four submissions on this proposal, three of which opposed inserting an aged debtors report.
- 53 The respondents argued that an aged debtors report should only be provided to ASIC when ASIC determines that a daily capital liquidity report is required. Another submission argued against the proposal as it only has a small aged debtors balance.

ASIC's response

We have proceeded with this proposal by inserting an aged debtors report requirement in the Capital Rules. The aged debtors report is an existing requirement in the Futures Capital Rules.

The inclusion of an aged debtors report in the Capital Rules allows ASIC to monitor the liquidity of receivables balances and ensure that aged receivables are appropriately excluded from the calculation of liquid capital. It also means we will not need to regularly request this information using our compulsory notice powers.

We do not consider that this requirement is overly burdensome, as market participants should be actively monitoring their receivables balances and readily have this information to hand.

Removal of subordinated debt from core capital calculation

- 54 In [CP 302](#), we sought feedback on the proposal to remove the ability of a market participant to meet its core capital requirement through the use of approved subordinated debt.
- 55 We received three submissions on this proposal. One respondent supported the proposal, provided ASIC continued to allow market participants to use approved subordinated debt in the calculation of liquid capital.
- 56 One respondent did not support the proposal because, in their view, subordinated debt is effectively capital and should be allowed to count as core capital.
- 57 Another respondent initially opposed the proposal on the misunderstanding that a market participant could not continue to use approved subordinated debt to meet liquid capital requirements. They have since provided in principle support to the proposal.
- 58 We indicated in CP 302 that, if we adopted this proposal, we may allow market participants a 24-month transition period. No submissions were received in relation to this extended transition period.

ASIC's response

We have proceeded with this proposal to remove the ability of a market participant to meet its core capital requirement through the use of approved subordinated debt.

We consider market participants should be expected to meet their minimum core capital requirements without the use of approved subordinated debt. This amendment will strengthen the risk profile of market participants.

We do not accept that approved subordinated debt is effectively capital. Unlike capital, subordinated debt is not freely available to absorb losses and often results in recurring service obligations such as interest payments that must be paid to the lender, even if a market participant incurs losses.

There are currently no market participants that rely on the use of approved subordinated debt to meet the core capital requirements.

Updated accounting terminology

- 59 In [CP 302](#), we sought feedback on the proposal to amend definitions in the Securities Capital Rules to update and align them with the Australian Accounting Standards.
- 60 We received two submissions on this proposal, both of which supported the proposal. These submissions also recommended that ASIC allow market participants to offset a right-of-use asset against its corresponding lease liability.
- 61 The submissions commented that AASB 16 *Leases* requires market participants to recognise the gross cost of a lease obligation as a right-of-use asset, with a corresponding liability for payments due under the lease. These new accounting principles require lease obligations to be reported on the balance sheet, which has the effect of significantly increasing the value of an 'excluded asset' and thereby requiring additional capital to be held.

ASIC's response

We have proceeded with this proposal to amend definitions in the Capital Rules to update and align them with the Australian Accounting Standards.

As a result of feedback in relation to AASB 16 *Leases*, we have amended the Capital Rules to allow a right-of-use asset to be offset against the corresponding lease liability, and the net amount to be treated as an excluded asset for the purposes of calculating liquid capital.

The offset of a right-of-use asset and the corresponding lease liability must occur on a lease-by-lease basis and not on an aggregated basis. Further, the net amount treated as an excluded asset must always be positive or zero in calculating liquid capital.

D Securities Capital Rules and Futures Capital Rules

Key points

This section outlines the feedback received on our proposed changes to the Securities Capital Rules and the Futures Capital Rules, and our response to those submissions.

Specifically, the feedback from respondents related to our proposals to:

- introduce liquidity requirements; and
- exempt authorised deposit taking institutions from the risk-based capital requirements in the Securities Capital Rules and the Futures Capital Rules.

Liquidity requirements

- 62 In [CP 302](#), we sought feedback on the proposal to introduce a rule in the Securities Capital Rules and the Futures Capital Rules that would require market participants to:
- (a) prepare a projection of cash flows over at least the next 12 months under both normal and stressed scenarios;
 - (b) document and explain the calculations and assumptions on which the projection is based;
 - (c) update the projection of cash flows:
 - (i) routinely to ensure the following 12-month period is appropriately forecast;
 - (ii) when there is a material change to the business of the market participant and/or the business/economic environment in which the market participant operates; or
 - (iii) when there is reason to suspect that an updated projection would differ materially from the current projection;
 - (d) have the projection of cash flows approved, at least quarterly, by the board of directors of the market participant or, if the market participant is a partnership, by two partners of the market participant; and
 - (e) document a contingency funding plan, procedures for managing liquidity risks, and procedures for the escalation of liquidity issues.

- 63 We received seven submissions on this proposal, with feedback from respondents recommending ASIC replace the proposed requirement for quarterly board approval with an annual approval process.
- 64 We received three submissions opposing the proposal, with two respondents indicating that preparing a rolling cash flow projection is burdensome and that the risk-based capital requirements are an adequate substitute to liquidity-specific requirements.
- 65 We also received feedback that preparing a projection of cash flows over 12 months would not result in accurate or meaningful projections.
- 66 One submission recommended that ASIC replace the proposed 12-month cash flow projection with a requirement to maintain a liquidity plan.
- 67 One submission recommended that cash flow projections only be reported to ASIC in times of financial stress, while another submission requested further guidance and practical examples from ASIC on how to comply with the proposed rule.

ASIC's response

As a result of feedback and subsequent discussions with some industry associations in relation to this proposal, we have made some adjustments including:

- removing the requirement to project 12 months of cash flows. We have replaced this with a requirement that a market participant must: (a) prepare a rolling projection of cash flows over three months based on the market participant's reasonable estimate of what is likely to happen over this term; and (b) maintain a liquidity plan that covers at least the next 12 months under both normal and stressed scenarios, taking into consideration expected changes to the market participant's strategy, business plans and financial circumstances;
- removing the requirement to have the cash flows approved by the board of directors or partners quarterly. We have replaced this with a requirement to have the liquidity plan approved by the board of directors (or by two partners, if the market participant is a partnership) at least annually; and
- retaining the requirement to document a contingency funding plan, procedures for managing liquidity risks, and procedures for the escalation of liquidity issues. We consider that projecting cash flows is an important element of good liquidity management.

We consider that these liquidity requirements are not overly burdensome and adequately address the liquidity risks likely to be faced by market participants.

Authorised deposit taking institutions exempt from complying with ASIC's capital requirements for market participants

- 68 In [CP 302](#), we sought feedback on the proposal to exempt market participants that are also authorised deposit taking institutions (ADIs) from complying with the risk-based capital requirements in the Securities Capital Rules and the Futures Capital Rules. This was on the basis that they already comply with the APRA capital requirements.
- 69 We received two submissions on this proposal, one of which fully supported the proposal and recommended that ASIC extend the exemption to include a non-operating holding company of an ADI and its subsidiaries.
- 70 The submission opposing the proposal indicated that allowing ADIs to be exempt from the risk-based capital requirements will involve additional counterparty risk when transacting with ADIs and provide ADIs with a significant cost of capital advantage.

ASIC's response

We have proceeded with this proposal to exempt ADIs from complying with the risk-based capital requirements in the Capital Rules to avoid regulatory duplication. We do not consider it necessary to further extend the exemption to other entities from complying with the risk-based capital requirements at this time.

We believe that the APRA capital requirements imposed on ADIs (which include market risk prudential standards) are a suitable alternative to the risk-based capital requirements in the Capital Rules and do not unduly increase counterparty risk. We also do not believe this will provide ADIs with a cost of capital advantage.

Appendix: List of non-confidential respondents

- Australian Financial Markets Association
- National Stock Exchange of Australia Limited
- Pritchard & Partners Pty Limited
- Stockbrokers and Financial Advisers Association Limited